

# Notice of Allowability

Application No.

09/547,846

Examiner

Matthew s Gart

Applicant(s)

ROSENBERG, JEREMY

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address--

All claims being allowable, PROSECUTION ON THE MERITS IS (OR REMAINS) CLOSED in this application. If not included herewith (or previously mailed), a Notice of Allowance (PTOL-85) or other appropriate communication will be mailed in due course. **THIS NOTICE OF ALLOWABILITY IS NOT A GRANT OF PATENT RIGHTS.** This application is subject to withdrawal from issue at the initiative of the Office or upon petition by the applicant. See 37 CFR 1.313 and MPEP 1308.

1. ☒ This communication is responsive to Examiners Amendment 9/1/2004.
2. ☒ The allowed claim(s) is/are 21-41.
3. ☒ The drawings filed on 12 April 2000 are accepted by the Examiner.
4. ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
  - a) ☐ All b) ☐ Some\* c) ☐ None of the:
    1. ☐ Certified copies of the priority documents have been received.
    2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
    3. ☐ Copies of the certified copies of the priority documents have been received in this national stage application from the International Bureau (PCT Rule 17.2(a)).

\* Certified copies not received: \_\_\_\_\_.

Applicant has THREE MONTHS FROM THE "MAILING DATE" of this communication to file a reply complying with the requirements noted below. Failure to timely comply will result in ABANDONMENT of this application.

**THIS THREE-MONTH PERIOD IS NOT EXTENDABLE.**

5. ☐ A SUBSTITUTE OATH OR DECLARATION must be submitted. Note the attached EXAMINER'S AMENDMENT or NOTICE OF INFORMAL PATENT APPLICATION (PTO-152) which gives reason(s) why the oath or declaration is deficient.
  6. ☐ CORRECTED DRAWINGS ( as "replacement sheets") must be submitted.
    - (a) ☐ including changes required by the Notice of Draftsperson's Patent Drawing Review ( PTO-948) attached
      - 1) ☐ hereto or 2) ☐ to Paper No./Mail Date \_\_\_\_\_.
    - (b) ☐ including changes required by the attached Examiner's Amendment / Comment or in the Office action of Paper No./Mail Date \_\_\_\_\_.
- Identifying indicia such as the application number (see 37 CFR 1.84(c)) should be written on the drawings in the front (not the back) of each sheet. Replacement sheet(s) should be labeled as such in the header according to 37 CFR 1.121(d).
7. ☐ DEPOSIT OF and/or INFORMATION about the deposit of BIOLOGICAL MATERIAL must be submitted. Note the attached Examiner's comment regarding REQUIREMENT FOR THE DEPOSIT OF BIOLOGICAL MATERIAL.

## Attachment(s)

1. ☐ Notice of References Cited (PTO-892)
2. ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3. ☒ Information Disclosure Statements (PTO-1449 or PTO/SB/08), Paper No./Mail Date 6/23/2004
4. ☐ Examiner's Comment Regarding Requirement for Deposit of Biological Material
5. ☐ Notice of Informal Patent Application (PTO-152)
6. ☐ Interview Summary (PTO-413), Paper No./Mail Date \_\_\_\_\_.
7. ☒ Examiner's Amendment/Comment
8. ☒ Examiner's Statement of Reasons for Allowance
9. ☐ Other \_\_\_\_\_.

### **EXAMINER'S AMENDMENT**

An examiner's amendment to the record appears below. Should the changes and/or additions be unacceptable to applicant, an amendment may be filed as provided by 37 CFR 1.312. To ensure consideration of such an amendment, it **MUST** be submitted no later than the payment of the issue fee.

Authorization for this examiner's amendment was given in a telephone interview with Martin Zoltick on August 31, 2004.

The application has been amended as follows:

#### **In The Claims**

Claims 1-18 have been canceled

Claims 19-20 have been previously canceled

New claims 21-41 have been added as follows:

21. (New) A method for purchasing items available for electronic delivery in a network, comprised of a fulfillment system configured to broadcast messages to consumers without the consumers initiating the broadcast, the broadcast messages identifying purchasable items available for electronic delivery by the consumers interacting with the broadcast messages and a set of first remote devices configured to receive the broadcast messages, enabling the consumers to view information about the purchasable items and to select the purchasable items, wherein the fulfillment system receives instructions identifying the selected purchasable items and delivers the

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selected purchasable items to the consumers electronically, the method comprising the steps of:

receiving at each first remote device a message broadcast from the fulfillment system without the consumer initiating the broadcast, the broadcast message identifying a purchasable item available for electronic delivery by said consumer interacting with the broadcast message, wherein the broadcast message is transmitted from the fulfillment system to the first remote devices using a first transmission type medium;

presenting information about the selected purchasable item identified in the broadcast message to the consumer;

receiving at a particular one of the first remote devices associated with one of the consumers an instruction generated by the consumer's interaction with the broadcast message, wherein the instruction indicates the consumer's request to deliver the item electronically to a second client device;

transmitting information from the particular first remote device to the fulfillment system, wherein the transmitted information reflects the received instruction; and

delivering, by the fulfillment system to the second client device associated with the consumer associated with the particular first remote device at which the instruction was received, the item requested for purchase by the consumer using a second transmission type medium to deliver the requested item electronically, wherein the second transmission type medium is different from the first transmission type medium used for the broadcast message.

22. (New) The method of claim 21, further comprising the step of:

maintaining at the fulfillment system a memory containing information associating each first remote device with a consumer.

23. (New) The method of claim 21, further comprising the step of:

maintaining at the fulfillment system a memory containing data associating each first remote device with information about the second client device associated with each consumer with which the fulfillment system delivers items requested for purchase.

24. (New) The method of claim 21, wherein the step of delivering the item electronically to the second client device associated with the consumer associated with the particular first remote device at which the instruction was received, includes:

determining whether the consumer is permitted to purchase the item.

25. (New) The method of claim 24, wherein the determining step includes the step of:

accessing credit information associated with the consumer using a payment identifier associated with the consumer.

26. (New) The method of claim 25, wherein the payment identifier is provided as part of the information transmitted from the particular first remote device to the fulfillment system.

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27. (New) The method of claim 21, wherein the fulfillment system transmits and receives information relating to items available for electronic delivery to and from consumers using multiple transmission type mediums.

28. (New) The method of claim 27, wherein the fulfillment system maintains a database that contains information relating to a consumer's access to multiple transmission type mediums.

29. (New) The method of claim 21, wherein each first remote device maintains a set of previously broadcasted messages for a predetermined period of time.

30. (New) A system for purchasing items available for electronic delivery in a network, the system comprising:

a fulfillment system configured to broadcast messages to consumers without the consumers initiating the broadcast, the broadcast messages identifying purchasable items available for electronic delivery by the consumers interacting with the broadcast messages;

a set of first remote devices configured to receive the broadcast messages, enabling the consumers to view information about the purchasable items and to select the purchasable items, wherein the fulfillment system receives instructions identifying the selected purchasable items and delivers the selected purchasable items to the consumers electronically;

means for receiving at each first remote device a message broadcast from the fulfillment system without the consumer initiating the broadcast, the broadcast message

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identifying a purchasable item available for electronic delivery by said consumer interacting with the broadcast message, wherein the broadcast message is transmitted from the fulfillment system to the first remote devices using a first transmission type medium;

means for presenting information about the selected purchasable item identified in the broadcast message to the consumer;

means for receiving at a particular one of the first remote devices associated with one of the consumers an instruction generated by the consumer's interaction with the broadcast message, wherein the instruction indicates the consumer's request to deliver the item electronically to a second client device;

means for transmitting information from the particular first remote device to the fulfillment system, wherein the transmitted information reflects the received instruction; and

means for delivering, by the fulfillment system to the second client device associated with the consumer associated with the particular first remote device at which the instruction was received, the item requested for purchase by the consumer using a second transmission type medium to deliver the requested item electronically, wherein the second transmission type medium is different from the first transmission type medium used for the broadcast message.

31. (New) The system of claim 30, wherein the fulfillment system comprises:

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a memory containing information associating each first remote device with a consumer.

32. (New) The system of claim 30, wherein the fulfillment system comprises:

a memory containing data associating each first remote device with information about the second client device associated with each consumer with which the fulfillment system delivers items requested for purchase.

33. (New) The system of claim 30, wherein the delivery means includes:

means for determining whether the consumer is permitted to purchase the item.

34. (New) The system of claim 33, wherein the determining means includes:

means for accessing credit information associated with the consumer using a payment identifier associated with the consumer.

35. (New) The system of claim 34, wherein the payment identifier is provided as part of the information transmitted from the particular first remote device to the fulfillment system.

36. (New) The system of claim 30, wherein the fulfillment system transmits and receives information relating to items available for electronic delivery to and from consumers using multiple transmission type mediums.

37. (New) The system of claim 36, wherein the fulfillment system includes:

a database that contains information relating to a consumer's access to multiple transmission type mediums.

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38. (New) The system of claim 30, wherein each first remote device includes:  
  
means for maintaining a set of previously broadcasted messages for a  
  
predetermined period of time.

39. (New) The system of claim 30, wherein the fulfillment system includes:  
  
means for storing at least one table including an identifier for each first remote  
device and data indicating a delivery address for transmitting items electronically to the  
second client devices associated with the consumers in response to the received  
purchase instructions.

40. (New) The system of claim 39, wherein the data indicating a delivery  
address for transmitting items electronically to the second client devices associated with  
the consumers in response to the received purchase instructions, includes:

information about the transmission type medium for the delivering means to  
transmit items electronically to each of the second client devices.

41. (New) The system of claim 30, wherein the set of first remote devices  
includes a set-top box.



### **Reasons For Allowance**

The following is an examiner's statement of reasons for allowance:

Independent claim 21 (method) and independent claim 30 (system) recites purchasing items available for electronic delivery in a network, comprised of a fulfillment system configured to broadcast messages to consumers without the consumers initiating the broadcast, the broadcast messages identifying purchasable items available for electronic delivery by the consumers interacting with the broadcast messages and a set of first remote devices configured to receive the broadcast messages, enabling the consumers to view information about the purchasable items and to select the purchasable items, wherein the fulfillment system receives instructions identifying the selected purchasable items and delivers the selected purchasable items to the consumers electronically, comprising:

receiving at each first remote device a message broadcast from the fulfillment system without the consumer initiating the broadcast, the broadcast message identifying a purchasable item available for electronic delivery by said consumer interacting with the broadcast message, wherein the broadcast message is transmitted from the fulfillment system to the first remote devices using a first transmission type medium;

presenting information about the selected purchasable item identified in the broadcast message to the consumer;

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receiving at a particular one of the first remote devices associated with one of the consumers an instruction generated by the consumer's interaction with the broadcast message, wherein the instruction indicates the consumer's request to deliver the item electronically to a second client device;

transmitting information from the particular first remote device to the fulfillment system, wherein the transmitted information reflects the received instruction; and

delivering, by the fulfillment system to the second client device associated with the consumer associated with the particular first remote device at which the instruction was received, the item requested for purchase by the consumer using a second transmission type medium to deliver the requested item electronically, wherein the second transmission type medium is different from the first transmission type medium used for the broadcast message.

SonicBox as described by the articles "Sonicbox brings Net radio into your living room" (Partyka, Jeff. October 12, 1999. CNN.com), "Internet Radio Listeners Unchained From Their PCs" (Olenick, Doug. October 25, 1999. Twice Computer Technology), and "Sonicbox and Microsoft Windows Media Internet Radio to the home Stereo" (Dec. 7, 1999. Microsoft Press Release) either alone or in combination with any other references of record, neither anticipates nor fairly and reasonably teaches a method and/or system comprised of a fulfillment system configured to broadcast messages to consumers without the consumers initiating the broadcast.

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Additionally, SonicBox teaches away from transmitting a broadcast message to a consumer without the consumer initiating the broadcast.

SonicBox utilizes the Microsoft Windows Media format for the *inBand* Remote Tuner because it offers high-quality streamed digital audio plus integrated digital rights management technology. Streaming multimedia files allow consumers to play a multimedia file (e.g. audio or video) as it downloads. A player will usually start buffering the multimedia file and then start playing the buffered material as it downloads the multimedia file to the consumers PC. The consumer initiates this downloading.

It is further observed that SonicBox either alone or in combination with any other references of record, neither anticipates nor fairly and reasonably teaches a method and/or system comprising receiving at a particular one of the first remote devices associated with one of the consumers an instruction generated by the consumer's interaction with the broadcast message, and delivering, by the fulfillment system to the second client device associated with the consumer associated with the particular first remote device at which the instruction was received.

Additionally, SonicBox teaches away from a method and/or system wherein the consumer utilizes two distinct devices. As disclosed by SonicBox, the purchased MP3 is delivered via the broadband connection through the Internet to the user's PC and the

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streamed music received by the SonicBox is also delivered via the same broadband connection thru the Internet to the user's same PC.

It is further observed that SonicBox either alone or in combination with any other references of record, neither anticipates nor fairly and reasonably teaches a method and/or system comprising delivering, by the fulfillment system to the second client device associated with the consumer associated with the particular first remote device at which the instruction was received, the item requested for purchase by the consumer using a second transmission type medium to deliver the requested item electronically, wherein the second transmission type medium is different from the first transmission type medium used for the broadcast message.

Additionally, SonicBox teaches away from a method and/or system wherein the second transmission type medium is different from the first transmission type medium, because the streamed music disclosed by SonicBox and the purchased music transmitted by SonicBox are both transmitted using the same transmission medium - i.e., a broadband connection --, not different transmission mediums as required by both claims 21 and 30.

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### **Conclusion**

Any comments considered necessary by applicant must be submitted no later than the payment of the issue fee and, to avoid processing delays, should preferably accompany the issue fee. Such submissions should be clearly labeled "Comments on Statement of Reasons for Allowance."

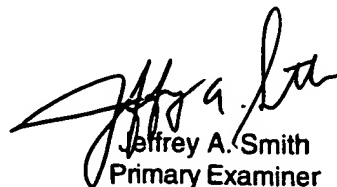
Any inquiry concerning this communication or earlier communications from the examiner should be directed to Matthew s Gart whose telephone number is 703-305-5355. The examiner can normally be reached on 8:30AM to 5:00PM m-f.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Wynn Coggins can be reached on 703-308-1344. The fax phone numbers for the organization where this application or proceeding is assigned are 703-746-7239 for regular communications and 703-746-7238 for After Final communications.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703-305-3900.

MSG

September 1, 2004



Jeffrey A. Smith  
Primary Examiner